

Office of Personnel Management

§ 890.1025

(c) *Entity's civil monetary penalty.* If a provider's debarment is based on a civil monetary penalty imposed on an entity he owns or controls, OPM shall debar him for 3 years, subject to adjustment on the basis of the aggravating and mitigating circumstances listed in § 890.1016 that apply to the provider as an individual.

§ 890.1020 Determining length of debarment based on false, wrongful, or deceptive claims.

Debarments under 5 U.S.C. 8902a(c)(4) and (5) and 5 U.S.C. 8902a(d)(1) and (2) shall be for a period of 3 years, subject to adjustment based on the aggravating and mitigating factors listed in § 890.1016.

§ 890.1021 Determining length of debarment based on failure to furnish information needed to resolve claims.

Debarments under 5 U.S.C. 8902a(d)(3) shall be for a period of 3 years, subject to adjustment based on the aggravating and mitigating factors listed in § 890.1016.

§ 890.1022 Contesting proposed permissive debarments.

(a) *Right to contest a proposed debarment.* A provider proposed for debarment under a permissive debarment authority may challenge the debarment by filing a written contest with the debarring official during the 30-day notice period indicated in the notice of proposed debarment. In the absence of a timely contest, the debarment shall become effective as stated in the notice, without further action by OPM.

(b) *Challenging the length of a proposed debarment.* A provider may contest the length of the proposed debarment, while not challenging the debarment itself, or may contest both the length of a debarment and the debarment itself in the same contest.

§ 890.1023 Information considered in deciding a contest.

(a) *Documents and oral and written arguments.* A provider may submit documents and written arguments in opposition to the proposed debarment and/or the length of the proposed debarment, and may appear personally or through a representative before the de-

barring official to provide other relevant information.

(b) *Specific factual basis for contesting the proposed debarment.* A provider's oral and written arguments shall identify the specific facts that contradict the basis for the proposed debarment as stated in the notice of proposed debarment. A general or unsupported denial of the basis for debarment does not raise a genuine dispute over facts material to the debarment, and the debarring official shall not give such a denial any probative weight.

(c) *Mandatory disclosures.* Regardless of the basis for the contest, providers are required to disclose certain types of background information, in addition to any other information submitted during the contest. Failure to provide such information completely and accurately may be a basis for OPM to initiate further legal or administrative action against the provider. The specific items of information that shall be furnished to OPM are:

(1) Any existing, proposed, or prior exclusion, debarment, penalty, or other sanction imposed on the provider by a Federal, State, or local government agency, including any administrative agreement that purports to affect only a single agency;

(2) Any criminal or civil legal proceeding not referenced in the notice of proposed debarment that arose from facts relevant to the basis for debarment stated in the notice; and

(3) Any entity in which the provider has a control interest, as that term is defined in § 890.1003.

§ 890.1024 Standard and burden of proof for deciding contests.

OPM shall demonstrate, by a preponderance of the evidence in the administrative record as a whole, that a provider has committed a sanctionable violation.

§ 890.1025 Cases where additional fact-finding is not required.

In each contest, the debarring official shall determine whether a further fact-finding proceeding is required in addition to presentation of arguments, documents, and information. An additional fact-finding proceeding is not required when: